

MEMORANDUM

TO: Transfer No. 75369 File

FROM: Angela Grimm

DATE: June 10, 2009 Amended September 21, 2009

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to change the point of diversion of water right 67-381 on Hornet Creek to a downstream location on Hornet Creek to allow for more efficient delivery of the right.

The site is generally located northwest of the intersection of Hornet Creek Rd and Old Hornet Creek Rd approximately 2 miles northwest of Council.

Summary of Information Submitted

Authority to File: Department records indicate James and Roberta Hinson are the owners of the right proposed for transfer. They are the sole members of Hinson Holdings LLC (applicant) per applicant remarks and verification that they are members via the Secretary of State's business registration website. A warranty deed was submitted with the transfer application demonstrating Hinson Holdings LLC is the property and water right owner. The applicant has authority to change its right.

Water Right Validity: Right presumed to be valid because the partial decree was issued on 10/20/08 within the past five year period.

Injury to Other Water Rights: No injury should occur from changing the P/D to the proposed location. The proposed P/D is downstream of and from the same surface water source as the current P/D. Diversion of water from the proposed P/D is unlikely to decrease the amount of water available to existing and future water rights, because the transfer does not propose an increase in the quantity of water used for irrigation and the proposed P/D is downstream of the existing P/D.

Enlargement of Use: The applicant does not propose to increase the diversion rate or number of acres irrigated. The right is now limited to an annual diversion volume. This right is a primary irrigation right and will remain as such. The proposed P/D is downstream of the current P/D, potentially at a location of greater water availability and reliability. To avoid enhancement in water supply, diversion at the additional P/D should be restricted to times when water is available and the water rights are in priority at the original P/D.

Local Public Interest: Authorizing use of a new P/D approximately 1.5 miles downstream from the current P/D within a water district enabling the owner to divert water more efficiently closer to their property for irrigation purposes serves the local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use(s) consistent with conservation of water resources in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Discussion

The water right record proposed for change, 67-381 was decreed 10/8/08. The partial decree was recorded in the database and the record was migrated to a water right record. Data entry for this transfer will affect the water right record of 67-381.

Overlap analysis of ArcMap data indicates the current P/D for 67-381 may also be the P/D for rights 67-388, 67-390, 67-391, 67-392, and 67-4111. I was unable to find any additional information confirming the overlap. Due to the fact that none of these rights have a combined limit for diversion rate or volume from this P/D, the unconfirmed overlap is irrelevant in determining limitations on the proposed P/D or other conditions or attributes of this transfer. There are no other applicable overlapping rights at the proposed P/D or existing P/U.

The transfer proposes to change the ownership of the right from James and Roberta Hinson to Hinson Holdings, LLC. A warranty deed was submitted with this transfer application and with a previous Change of Ownership application submitted in 2006. The warranty deed states the property of the P/U with all appurtenances was sold by Hastie Land, LLC to Hinson Holdings, LLC. The 2006 Change of Ownership was processed and mistakenly put the water right in the names of James and Roberta Hinson rather than Hinson Holdings, LLC as the deed states is the current property owner. Processing of this transfer will serve as an avenue to record the ownership of this right correctly.

The existing and proposed P/Ds are within Basin 67 Weiser River water district. A comment letter was sent to the water master during the advertising process. A statement the watermaster does not oppose approval of this transfer was received via email July 4, 2009.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.